



Staff Report

CONTINUED DISCUSSION AND DIRECTION ON ESTABLISHING AN ADMINISTRATIVE HEARING PROCESS FOR CODE ENFORCEMENT

Honorable Mayor and Council Members:

Summary

At the June 14, 2005, City Council meeting, staff presented to Council for their review an analysis of the issues surrounding the development and use of an Administrative Hearing Process for the City of Belmont. The Council received the report and in their deliberations posed a number of questions for further research. Staff is returning at this time to provide answers and additional information in response to Council's questions.

Background

Attached is a copy of the staff report from the June 14, 2005. In the staff report, staff asked for guidance related to the following issues:

1. When to begin levying fines against the violators.
2. How the Hearing Board or Hearing Officer is staffed.
3. The Hearing Board's Authority of fines or penalties.
4. The possibility of appeal to Council.
5. How to collect fines and penalties that are levied.
6. Applying an Assessment Fee once staff begins enforcement proceedings.

Each of these topics poses important policy considerations, including significant legal questions. The City Attorney has prepared a legal opinion on, which is provided under separate cover.

In addition, the Council asked about using volunteers to assist with various code enforcement tasks. The use of volunteers may benefit the code enforcement and Administrative Hearing Process, as discussed below.

Discussion

Staff has been working to develop a volunteer program to assist with code enforcement duties, as reported to the Council on October 26, 2004. The volunteers could assist staff in the following tasks listed below. As can be seen most of these activities will directly support the use of an administrative code enforcement procedure:

- Re-Inspection

- Volunteers will conduct re-inspections of properties to verify if violations have been corrected or if the case needs to continue.
- Conduct initial inspections of situations that require no public contact.
 - Volunteers will inspect complaints regarding illegal signs and banners located at businesses.
- Receiving and entering new cases in the database tracking system
 - Volunteers can assist current staff with the receipt and entering of new reports of violations of possible violations.
- Conduct research of historical files for complex cases
 - Conducting research of the historical files is a time consuming process. Volunteers can assist staff by conducting this research to locate past decisions or actions on various property allowing staff to concentrate on other pressing issues.
- Removing illegally posted signs from poles in the City.
 - During the weekends, a large amount of signs are posted illegally in Belmont on poles advertising garage sales and other various activities. Staff spends an unnecessary amount of time removing these signs. Volunteers could perform this task to improve the overall appearance of Belmont by removing these signs on weekends or Monday mornings.
- Filing closed cases into appropriate department files for future reference.
 - Volunteers can assist staff with the filing of closed cases in the appropriate department files.
- Scanning closed files and Historical files into the database for easier access.
 - The City has went to great expense to acquire technology to scan files and other paperwork into a database for easier and faster access. Volunteers can assist staff with the scanning of historical files for easier access.

The City must also be mindful that volunteers carry an increase in liability (trespassing, violating civil right, etc.) or raise conflict of interest problems. In order to reduce the risk of possible liability, staff will need to conduct training for the volunteers and provide proper supervision. These activities can be incorporated into the administrative process, but assuring that they are conducting efficiently and legally will also add costs.

Fiscal Impact

As brought forth in the previous staff report, additional expenses would result from the adoption of a City run administrative process. A portion of these additional costs could be defrayed by a matching fee schedule.

Public Contact

Posting of agenda and staff report on web.

Recommendation

Staff is proceeding with the development of an Administrative Process for Belmont. At this

time, staff will need guidance from Council on the following matters:

- When to begin levying fines against violators
 - After 1st notice
 - After 2nd notice
 - After Hearing Board decision and fine is stated in judgment
- How is the Hearing Board staffed
 - Established City Commission
 - Senior Management Team members
 - Independent third party (Retired attorney or judge)
 - Other members of the Community
 - A combination of some of the above
- The Hearing Board's authority over fines or penalties
 - May reduce fines / penalties (will reduce revenues)
 - May not reduce fines / penalties
- The possibility of appeal to the Council
 - The Hearing Board's decision is final (subject to court appeal)
 - Council will hear appeals of Hearing Board decisions
- How to collect any fines and penalties that are levied
 - Apply lien on property
 - Outside collection agency
 - Finance Department attempting collection
- Should an Assessment Fee be applied once staff begins enforcement proceedings
 - This is a fee that is separate from any fines that may be applied
 - This fee is applied once staff begins abatement proceedings

Attachments

A. City Council Staff report (June 14, 2005)

Respectfully submitted,

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